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In re Application of: Matsunami, et al.
Application No. 10/775,886
Filed: February 10, 2004
For: STORAGE DEVICE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 01 April 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

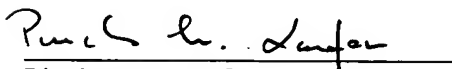
application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 01 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion of the references is confusing. Petitioner states that the "references do not disclose or suggest the features and steps of the claims of the present invention." Petitioner then goes on to state that the references fail to disclose or suggest essentially all of the limitations of independent claim 1. It is not clear if these statements are intended to mean that none of the elements of claim 1 are disclosed by the references or that the entirety of claim 1 is not disclosed by the references. If the intent is the former, it would be difficult to conclude that the search was directed to the claimed invention if essentially *none* of the claim limitations were found in the prior art deemed "most closely related". If the intent is the latter, a statement that the entirety of independent claim 1 is not disclosed by the four references purported to be "most closely related" is not a sufficient detailed description. Petitioner then further states that three of the references fail to disclose the limitation of a "first interface control device decides based on identification information received from the computer a storage position of data of the file designated by the identification information with the plurality of disks" and that the fourth reference fails to disclose this limitation and the limitation of "a second interface control device connecting to the first interface control device". It is unclear what is intended by the discussion of these specific limitations when it appears to have already been alleged that either the references fail to disclose any of the elements of claim 1 or that the references fail to disclose the entirety of claim 1, as noted above. Additionally, it is not clear that claim 25 requires that the identification information used to decide a storage position is received from the computer.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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